

**PROPOSED AMENDMENTS 2003-04**

**UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA**

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Rule 1.1

**LOCATIONS**

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(a) **Clerk's Offices; Place of Filing.** Permanent office of the Clerk shall be maintained at Phoenix and at Tucson and shall be open ~~from the hours of 8:30 a.m. to 5:00 p.m. during~~ regular business hours, as designated and posted by the Clerk of Court, on each day except Saturdays, Sundays, and legal holidays enumerated in Fed.R.Civ.P. 77(c), when the offices are closed unless otherwise ordered by the Court. All files and records of the Phoenix and Prescott divisions shall be kept at Phoenix, and all files and records of the Tucson division shall be kept at Tucson. Unless otherwise ordered by the Court, all filings for the Phoenix and Prescott divisions shall be made in Phoenix, and all filings for the Tucson division shall be made in Tucson. In cases where the cause of action has arisen in more than one county, the plaintiff may elect any of the divisions appropriate to those counties for filing and trial purposes, although the Court reserves the right to assign any cases for trial elsewhere in the District at its discretion.

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## Rule 1.2

**FILING OF DISCOVERY AND DISCLOSURE NOTICES;  
ASSIGNMENT OF CASES; RELATED CASES AND CONSOLIDATION;  
~~CIVIL RICO CASES~~ BANKRUPTCY APPEAL CASES**

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(c) **Assignment of Criminal Cases.** Within each division, the criminal cases, when filed, shall be assigned ~~equally~~ among the District Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk shall randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred shall remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision shall immediately notify the presiding judge before whom the new case is pending.

Where a defendant is charged with a new crime and is currently on supervised release, the new case which is pending or subsequently filed shall be assigned to the District Judge presiding over the revocation proceeding. However, if the Judge assigned the revocation proceeding is a Senior District Judge, unless otherwise ordered by that Judge, both matters shall be assigned to a District Judge drawn by automated random selection.

(d) **Assignment of Juvenile Matters.** Within each division, the juvenile matters, when filed, shall be assigned ~~equally~~ among the District Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a

manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. The cases so assigned shall remain with the Judge to whom assigned unless otherwise ordered by the Court. When an information is filed against a juvenile in the District Court, a District Court Judge shall be assigned to hear the matter. If the government moves to transfer the juvenile to adult status and the motion to transfer is granted, the case shall be assigned by automated random selection to a District Judge upon return of an indictment by the grand jury.

(e) **Assignment of Civil Cases.** Within each division, the civil cases, when filed, shall be assigned ~~equally~~ among the ~~District~~ Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. The cases so assigned shall remain with the Judge to whom assigned unless otherwise ordered by the Court. Unless otherwise ordered by the Court, the Clerk shall assign each civil case to a District Judge or a Magistrate Judge by automated random selection, except that when preliminary injunctive relief is requested by motion, the Clerk shall assign the case to a District Judge. In the event the action is assigned to a Magistrate Judge, each party shall execute and file within 20 days of its appearance either a written consent to the exercise of authority by the Magistrate Judge under 28 U.S.C. § 636(c), or a written election to have the action reassigned to a District Judge. Each party shall indicate his or her consent or election on the form provided by the ~~Court~~ Clerk. Prior to the completed consent or election forms being received by the Clerk of the Court, the assigned Magistrate Judge

shall act pursuant to 28 U.S.C. § 636(b)(1)(A). Any motion submitted by a party before that party has filed an election form may be stricken or deferred by the Court. In the event one or more parties elect to have a case heard by a District Judge, the case shall be reassigned to a District Judge. After one or more consents to a Magistrate Judge have been filed with the Clerk and until such time as an election is made by any party for assignment to a District Judge, the Magistrate Judge shall continue to act pursuant to 28 U.S.C. § 636(c)(1) even though all parties have not been served or have not filed their appearances. Consent to a Magistrate Judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).

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(g) (1) **Related Cases.** Whenever two or more cases are pending before different ~~District~~ Judges and any party believes that such cases (A) arise from substantially the same transaction or event; (B) involve substantially the same parties or property; (C) involve the same patent, trademark, or copyright; (D) callg for determination of substantially the same questions of law; or (E) for any other reason would entail substantial duplication of labor if heard by different ~~District~~ Judges, any party may file a motion to transfer the case or cases involved to a single ~~District~~ Judge. ~~The motion shall be filed in each affected case, but shall contain the caption of the case with the lowest number and shall be heard by the District Judge to whom that case is assigned.~~ The motion shall be filed in the case with the lowest case number and shall be heard by the Judge assigned to that case. The caption of the motion to transfer shall list the case number of that case, followed by a complete listing of the case numbers of all the cases to be considered for reassignment. In addition, a notice of filing motion to transfer, with a copy of

the motion attached, shall be filed in each case to be considered for reassignment.

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\*(i) **Bankruptcy Appeal Cases.** Except with permission of the district court, the appellant's and appellee's opening briefs shall not exceed seventeen (17) pages, and reply briefs shall not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations, proof of service and any addendum containing statutes, rules, regulations or similar material.

~~\*(i) **All Civil RICO Actions.** The following rule shall apply to all claims filed in this District under the Racketeer Influenced & Corrupt Organizations Act ("Rico"), 18 U.S.C. § 1961, et seq.~~

~~Each party asserting a claim, cross-claim or counterclaims under RICO shall file a "Rico Case Statement" as described below. This statement shall be filed within 20 days of the filing of the claim, cross-claim, or counterclaim in the particular action, and shall include those facts upon which the plaintiff is relying and which were obtained as a result of the "reasonable inquiry" required by Fed.R.Civ.P. 11. In particular, this statement shall be in a form which uses the numbers and letters as set forth below, and shall state in detail and with specificity the following information.~~

~~1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. § 1962(a), (b), (c), and/or (d).~~

~~2. List each defendant and state the alleged misconduct and basis of liability of each defendant.~~

~~3. List the alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.~~

~~4. List the alleged victims and state how each victim was allegedly injured.~~

~~5. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:~~

~~a. List the alleged predicate acts and the specific statutes which were allegedly violated;~~

~~b. Provide the dates of predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;~~

~~c. If the RICO claim is based in the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." Fed.R.Civ.P. 9(b). Identify the time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;~~

~~d. State whether there has been a criminal conviction for violation of each predicate act;~~

~~e. State whether civil litigation has resulted in a judgment in regard to each predicate act;~~

~~f. Describe how the predicate acts form a "pattern of racketeering activity"; and~~

~~g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.~~

~~6. Describe in detail the alleged enterprise for each RICO claim. A description of the enterprise shall include the following information:~~

~~a. State the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;~~

~~b. Describe the structure, purpose, function and course of conduct of the enterprise;~~



~~\_\_\_\_\_ c. State whether any defendants are employees, officers or directors of the alleged enterprise;~~

~~\_\_\_\_\_ d. State whether any defendants are associated with the alleged enterprise;~~

~~\_\_\_\_\_ e. State whether the claimant is alleging that the defendants are individuals or entities separate from the alleged enterprise, or that the defendants are the enterprise itself, or members of the enterprise; and~~

~~\_\_\_\_\_ f. If any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.~~

~~\_\_\_\_\_ 7. State and describe in detail whether the claimant is alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.~~

~~\_\_\_\_\_ 8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.~~

~~\_\_\_\_\_ 9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.~~

~~\_\_\_\_\_ 10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.~~

~~\_\_\_\_\_ 11. If the complaint alleges a violation of 18 U.S.C. §1962(a), provide the following information:~~

~~\_\_\_\_\_ a. State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and~~

~~\_\_\_\_\_ b. Describe the use or investment of such income.~~

~~\_\_\_\_\_ 12. If the complaint alleges a violation of 18 U.S.C. §1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.~~

~~13. If the complaint alleges a violation of 18 U.S.C. §1962(c), provide the following information:~~

~~a. State who is employed by or associated with the enterprise; and~~

~~b. State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).~~

~~14. If the complaint alleges a violation of 18 U.S.C. §1962(d), describe in detail the alleged conspiracy.~~

~~15. Describe the alleged injury to business or property.~~

~~16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.~~

~~17. List the damages sustained for which each defendant is allegedly liable.~~

~~18. List all other federal causes of action, if any, and provide the relevant statute numbers.~~

~~19. List all supplemental state claims, if any.~~

~~20. Provide any additional information that you feel would be helpful to the Court in processing your RICO claim.~~

~~This subpart of the local rule 1.2(i) shall be deemed an order of the Court and subjects the parties to the provisions of Rule 37, Fed.R.Civ.P.~~

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Rule 1.5

**ATTORNEYS**

(a) **Admission to the Bar of this Court.** Admission to and continuing membership in the bar of this Court is limited to attorneys who are active members in good standing of the State Bar of Arizona.

Attorneys may be admitted to practice in this District upon application and motion made in their behalf by a member of the bar of this Court.

Every applicant shall first file with the Clerk a statement on a form provided by the Clerk setting out the applicant's place of birth, ~~residence, office address~~ principal office address and city and state of principal residence, the courts in which the applicant has been admitted to practice, the respective dates of admissions to those courts, whether the applicant is active and in good standing in each, and whether the applicant has been or is being subjected to any disciplinary proceedings.

Motions for admission will be entertained upon the convening of the Court at the call of the law and motion calendar. The applicant must be personally present at the time and, if the motion is granted, shall be admitted upon being administered the following oath by the Clerk or a District Judge:

"I solemnly swear (or affirm) that I will support the Constitution of the United States; that I will bear true faith and allegiance to the Government of the United States; that I will maintain the respect due to the courts of justice and judicial officers; and that I will demean myself as an attorney, counselor, and solicitor of this Court uprightly."

Thereafter, before a certificate of admission issues, the applicant shall pay an admission fee of eighty dollars (\$80) to the Clerk, U.S. District Court.

(b) **Practice in this Court.** Except as herein otherwise provided, only members of the bar of this Court shall practice in this District.

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(3) *Pro Hac Vice.* An attorney who is admitted to practice in another U.S. District Court, and who has been retained to appear in this Court may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible to practice pursuant to this subparagraph (b)(3) if any one or more of the following apply: (i) the attorney resides in Arizona, (ii) the attorney is regularly employed in Arizona, or (iii) the attorney is regularly engaged in the practice of law in Arizona. The pro hac vice application shall be presented to the Clerk and shall state under penalty of perjury (i) the attorney's ~~residence and office address~~ principal office address and city and state of principal residence as well as current telephone number, facsimile number and electronic mailing address, if any, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) that the attorney is in good standing and eligible to practice in those courts, (iv) that the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted. The pro hac vice application shall also be accompanied by payment of a pro hac vice fee of twenty-five dollars (\$25.00) to the Clerk, U.S. District Court. If the pro hac vice

application is denied, the Court may refund any or all of the fee paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the Court to the same extent as a member of the bar of this Court.

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Rule 1.7

**APPEARANCE BY ATTORNEY OR PARTY; NAME AND ADDRESS CHANGES;  
CONTROL OF CAUSE**

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(c)(1) **Applicability of Rules.** Anyone appearing before the court is bound by these rules. Any reference in these rules to 'attorney' or 'counsel' applies to parties not represented by an attorney unless the context requires otherwise.

(2) **Appearance by Represented Party.** Whenever a party has appeared by an attorney, that party cannot thereafter appear or act in that party's own behalf in the cause, or take any steps therein, unless an order of substitution shall first have been made by the Court after notice to the attorney of each such party, and to the opposite party. The attorney who has appeared of record for any party shall represent such party in the cause and shall be recognized by the Court and by all the parties to the cause as having control of the client's case, in all proper ways, and shall, as such attorney, sign all papers which are to be signed on behalf of the client, provided that the Court may in its discretion hear a party in open court, notwithstanding the fact that that party has appeared or is represented by an attorney.

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## Rule 1.9

**FORMS OF PAPERS - CIVIL AND CRIMINAL**

(a) **Title Page.** The following information shall be stated upon the first page of every document and may be presented for filing single-spaced\*:

(1) The name, address, State Bar Attorney number, ~~and~~ telephone number, and optionally the facsimile number and electronic mail address, of the attorney appearing for the party in the action or proceeding and whether the attorney appears for the plaintiff, defendant, or other party - in propria persona - shall be typewritten or printed in the space to the left of the center of the page and beginning at line one (1) on the first page. The space to the right of the center shall be reserved for the filing marks of the Clerk.

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(3) Below the title of the Court, there shall be inserted in the space to the left of the center of the paper the title of the action or proceeding. If the parties are too numerous for all to be named on the first page, the names of the parties only may be continued on the second or successive pages. All parties named in the case caption shall be ~~numbered and separated by semicolons on any initial or amended complaint, petition, crossclaim, counterclaim, or third-party complaint.~~ If the initial or amended complaint, petition, crossclaim, counterclaim, or third-party complaint applies to a consolidated action, the affected case number(s) must appear below the number of the established "lead", or lowest-numbered case. For all other papers filed in civil or criminal cases, it is sufficient to state the name of the first party on each side with an appropriate indication of the other parties, as provided by Rule 10(a), Federal Rules of Civil Procedure. All counsel/litigants

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\* A sample form is provided in Appendix C.

are required to use proper capitalization and spacing to denote the correct spelling of the party names. In the space to the right of the center there shall be inserted (A) the number of the action or proceeding; (B) a brief description of the nature of the document, including demand for trial by jury if made in the document; and (C) mention of any notice of motion or affidavits or memorandum in support.

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(c) **Pleadings and Other Papers.**

(1) All pleadings and other papers shall be submitted on unglazed paper 8 ½ inches by 11 inches and shall be signed as provided in Rule 11 of the Federal Rules of Civil Procedure. The original of every pleading, motion or other paper filed by an attorney shall bear the genuine signature of at least one attorney of record. The original of every pleading, motion or other paper filed by an unrepresented party shall bear the genuine signature of such pro se party. Stamped or facsimile signatures on original pleadings, motions or other papers filed by attorneys or unrepresented parties are not acceptable.

Documents intended for filing shall be presented to the Clerk's Office without being folded or rolled and shall be kept in flat files. The body of all documents shall be typed double-spaced and shall not exceed 28 lines per page; they shall not be single-spaced except for footnotes and indented quotations. All pleadings, motions and other original papers filed with the Clerk shall be in a fixed-pitch type size no smaller than ten (10) pitch (10 letters per inch) or in a proportional font size no smaller than 13 point. The left margin shall not be less than 1 ½ inches and the right margin shall not be less than ½ inch. All documents presented for filing shall be stapled in the upper left-hand corner. Documents which are too large for stapling should be bound with a metal prong fastener at the top, center of



the document. Documents filed by incarcerated persons are exempt from the stapling and fastening requirements.

~~(d) **Amended Pleadings.** Any party filing an amended pleading shall retype the entire pleading and may not incorporate any part of the preceding pleading, including the exhibits, by reference.~~

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Rule 1.10

**MOTIONS - CIVIL AND CRIMINAL\***

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**(f) Oral Arguments.**

~~(1) Dispositive Motions. For motions filed pursuant to Rule 12(b) or Rule 56 of the Federal Rules of Civil Procedure, any party desiring oral argument shall secure a time of hearing from the District Judge or Magistrate Judge assigned to the case and shall file with the motions or responses a separate notice of hearing setting forth the date, time, judge and location for the hearing. The date of the hearing shall be such as to give each party sufficient time to comply with this Rule and to allow the Court at least five (5) additional days prior to such hearing, unless otherwise directed by the Court.~~

~~—————(2) All Other Motions. There shall be a presumption of no oral argument on all other motions. Any party desiring oral argument shall request argument by placing "Oral Argument Requested" immediately below the title of such motion. If oral argument is granted, the Court shall cause a minute entry to be issued setting forth the date, time, judge and location for the hearing.~~

Unless otherwise directed by the Court, a party desiring oral argument shall request it by placing "Oral Argument Requested" immediately below the title of such motion or the response to such motion. If oral argument is granted, notice shall be given in a manner directed by the Court.

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~~(h) Submitted Motions. It is presumed that motions, other than motions filed pursuant to Rule 12(b) or Rule 56 of the Federal Rules of Civil Procedure, will be considered and decided without oral argument, unless otherwise requested and permitted by the Court.~~

**(~~i~~h) Briefs or Memoranda of Law; Effect of Non-Compliance.**

If a motion does not conform in all substantial respects with the requirements of this Rule, or if the opposing party does not serve and file the required answering memoranda, or if counsel for any party fails to appear at the time and place assigned for oral argument, such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.

**(~~j~~i) ~~Civil Discovery Motions and All Criminal Motions.~~** No discovery motion ~~filed in a civil case and no motion filed in a criminal case~~ will be considered or decided unless a statement of moving counsel is attached thereto certifying that after personal consultation and sincere efforts to do so, counsel have been unable to satisfactorily resolve the matter. Any ~~civil~~ discovery ~~or criminal~~ motion brought before the Court without prior personal consultation with the other party and a sincere effort to resolve the matter, may result in sanctions.

**(~~k~~j) Motions to Compel.** When a motion for an order compelling discovery is brought pursuant to Rule 37(a)(2) of the Federal Rules of Civil Procedure, the moving party shall set forth, separately from a memorandum of law, the following in separate, distinct, numbered paragraphs:

- (1) the question propounded, the interrogatory submitted, the designation requested or the inspection requested;
- (2) the answer, designation or response received; and
- (3) the reason(s) why said answer, designation or response is deficient

The foregoing requirement shall not apply where there has been a complete and total failure to respond to a discovery request or set of discovery requests.

**(~~l~~k) Motions for Summary Judgment.**

- (1) Any party filing a motion for summary judgment

shall set forth separately from the memorandum of law, and in full, the specific facts on which that party relies in support of the motion. The specific facts shall be set forth in serial fashion and not in narrative form. As to each fact, the statement shall refer to a specific portion of the record where the fact may be found (i.e., affidavit, deposition, etc.). Any party opposing a motion for summary judgment must comply with the foregoing in setting forth the specific facts, which the opposing party asserts, including those facts which establish a genuine issue of material fact precluding summary judgment in favor of the moving party. In the alternative, the movant and the party opposing the motion shall jointly file a stipulation signed by the parties setting forth a statement of the stipulated facts if the parties agree there is no genuine issue of any material fact. As to any stipulated facts, the parties so stipulating may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not intended to be otherwise binding.

(2) Notwithstanding the provisions of paragraphs (c), (d), and (f) above, the opposing party shall, unless otherwise ordered by the Court, have thirty (30) days after service within which to serve and file a responsive memorandum in opposition; the moving party, unless otherwise ordered by the Court, shall have fifteen (15) days after service of the responsive memorandum to file a reply memorandum. If oral argument is scheduled pursuant to paragraph (f) above, the time of hearing shall be set so as to give each party sufficient time to comply with these Rules and to allow the Court at least ten (10) days additional time prior to the hearing.

(m1) **Motions to Dismiss for Lack of Jurisdiction.** The time schedule for response, reply, and oral argument for motions to dismiss for lack of jurisdiction shall be the same as for motions

for summary judgment, as set forth in subparagraph (1)(2) above.

**(rm) Motions/Requests for Extension of Time.**

(1) The time prescribed for the doing of any act may be enlarged by the Court. Such order must be made before the expiration of the time prescribed, except by motion where the failure to act was the result of excusable neglect. It shall be the duty of the party moving for an extension of time, whether by motion or stipulation, to disclose the existence of all previous extensions which have been granted concerning the matter for which an extension is sought. Immediately below the title of such motion or stipulation, there shall also be included a statement indicating whether it is the first, second, third, etc. requested extension, i.e.: "STIPULATION FOR EXTENSION OF TIME TO ANSWER (Second Request)."

(2) Except in all civil actions in which a party is an unrepresented prisoner, it is the duty of the moving party to state the position of each other party in all motions for extension of time. If the moving party's efforts to determine the position of any other party are unsuccessful, a statement to that effect must be included in the motion.

**(on) Pending Motions Notification.** Whenever any motion or other matter has been taken under advisement by a District Judge or Magistrate Judge for more than one hundred and eighty (180) days, the attorneys of record in the case shall inquire of the Court, in writing, as to the status of the matter, and shall do so every fourteen (14) days thereafter until the submitted matter has been decided.

**(po) Motions for Reconsideration.** No response to a motion for reconsideration or clarification and no reply to the response shall be filed unless ordered by the Court. Absent good cause shown, any motion for reconsideration shall be filed no later than ten (10) days after the filing of the Order that is the

subject of the motion.

**(pp) Motions for Leave to Amend.**

(1) Form; Attachments. A party who moves for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion, which shall indicate in what respect it differs from the pleading which it amends, by bracketing or striking through the text to be deleted and underlining the text to be added.

(2) Lodging of Original Proposed Amendments. A party who moves for leave to amend a pleading, or who otherwise seeks to amend a pleading by leave of court including by stipulation and order, must lodge with the Clerk of Court an original of the proposed amended pleading. The original must not be physically attached or made an exhibit to a motion to amend, a stipulation to amend, or any other pleading and must contain the original signature of the attorney or unrepresented party proposing the amendment. The amended pleading is not to incorporate by reference any part of the preceding pleading, including exhibits.

(3) Effective Date of Filing Amendments; Service. The entry of the order granting leave to amend the pleading constitutes the filing date of the amended pleading and the Clerk of Court shall file the lodged pleading once the order is entered. The filing date of the amended pleading always constitutes the act from which the time for service begins to run. Unless otherwise ordered by the Court, or when the amendment adds a new party, the party who amended shall serve the amended pleading within ten (10) days of the filing date of such pleading and file a certificate of service.

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## Rule 1.12

**LAND CONDEMNATION PROCEEDINGS**

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(b) **Master File.** Where the United States files separate condemnation actions and a single ~~d~~Declaration of t~~T~~Taking relating to those separate actions, the Clerk will establish a Master File ~~in which the declaration of taking will be filed, and the filing of the declaration of taking therein shall constitute a filing of the same in each of the actions to which it relates.~~ containing the initial complaint and the Declaration of Taking. The Master File shall be assigned to a Judge in accordance with Rule 1.2(e), and all other cases that are subject to the Declaration of Taking shall be assigned to that Judge without resorting to further assignment by automated random selection.

(c) **Incorporation by Reference.** ~~The file in the civil action containing the first complaint filed under a single declaration of taking for multiple tracts shall be designated as the Master File for all actions based upon the declaration of taking. The single declaration of taking shall be filed in the Master File only. A separate complaint shall be filed for the action designated as the Master File. In all other actions for condemnation of property which is the subject of the declaration of taking, and appropriate reference to the Master File case number in a standard form of complaint shall be deemed to incorporate in the cause the declaration of taking by reference, and shall be a sufficient filing of the declaration of taking to which it refers.~~ In cases where a single Declaration of Taking covers multiple tracts, the United States shall file a "Notice of Related Condemnation Actions" in the Master File that will list all of the related condemnation actions. The Declaration of Taking will be deemed incorporated by reference into all of the cases listed in the notice of related condemnation actions.

\* \* \*

~~(f) **Assignment of Judge.** The case containing the declaration of taking and designated as the Master File shall be assigned to a District Judge in accordance with Rule 1.2(e), and all other cases which are subject to the declaration of taking will be assigned to that District Judge without resorting to further assignment by automated random selection.~~

\* \* \*



Rule 1.13

**INVESTMENT OF FUNDS ON DEPOSIT  
IN THE REGISTRY ACCOUNT**

The following procedure shall govern deposits into the registry of the Court in all civil actions.

(a) ~~Application for Order to Invest Receipt of Funds.~~ ~~When funds are deposited in Registry of the Court pursuant to Rule 67, Federal Rules of Civil Procedure, with the exception of criminal cash bail, cost bonds, and civil garnishments, the party or parties will make application to the Court for an order to invest funds in accordance with the following provisions of this Rule.~~

(1) Unless the statute requires the deposit of funds without leave of Court, no money shall be sent to the Court or its officers for deposit into the Court's registry without a Court order signed by the presiding Judge in the case or proceeding.

(2) Unless provided for elsewhere in this Rule, all money ordered to be paid into the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(3) The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the Clerk or the Chief Deputy Clerk, and upon the Financial Deputy.

(4) Upon making the deposit, a "Notice of Deposit" must be filed with the Court.

(b) ~~Content of Order.~~ ~~The order directing the Clerk to invest funds deposited in the Registry Account of the Court pursuant to 28 U.S.C. §2041 in an interest bearing account or~~

~~instrument will contain the name of the bank or financial institution where the funds are to be invested, the type of account or instrument, and the terms of the investment. Funds can only be deposited in financial institutions designated in Department of the Treasury Circular 176, and that have pledged sufficient securities to secure the total sum of deposits plus interest in excess of FDIC coverage (\$100,000.00 per account). The funds will be retained in the Registry Account until the financial institution has pledged the required securities and the Clerk provided with written verification.~~

~~(c) **Service of Order.** Counsel obtaining an order as described in paragraph (b) of this Rule shall cause a copy to be served personally upon the Clerk or the Chief Deputy and the Financial Deputy in the Phoenix or Tucson Divisions as appropriate.~~

~~(d)(b) **Deposit of Funds by the Clerk Investment of Registry Funds.** The Clerk shall take all reasonable steps to deposit funds into interest bearing accounts or instruments within, but not more than, fifteen (15) days after having been served with a copy of the order as provided in paragraph (c) of this Rule.~~

(1) All funds deposited into the registry of the Court will be placed in some form of interest bearing account. Unless otherwise ordered, the Court Registry Investment System (CRIS), administered through the United States District Court for the Southern District of Texas, shall be the only investment mechanism authorized.

(2) Under the CRIS, monies deposited in each case under (a)(1) will be "pooled" together with those on deposit with the Treasury to the credit of other courts in the Court Registry Investment System and used to purchase Treasury Securities which will be held at the Federal Reserve Bank of the Dallas/Houston Branch, in a Safekeeping account in the name and to the credit of

the Clerk, United States District Court for the Southern District of Texas, hereby designated custodian for the Court Registry Investment System.

(3) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income total has to the aggregate principal and income total in the fund each week. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

~~(e)(c) Deduction of Fee Registry Investment Fee. The Clerk shall deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.~~

(1) Pursuant to the miscellaneous fee schedule established by the Judicial conference of the United States and as set forth in 28 U.S.C. § 1914, the Clerk will assess and deduct registry fees according to the formula promulgated by the Director of the Administrative Office of the United States Courts.

(2) No additional fee shall be assessed with respect to investments for which a fee has already been deducted prior to the establishment of the CRIS in this district.

~~(f) **Verification of Investment.** Any party or parties obtaining an order directing investment of funds by the Clerk will, fifteen (15) days after service of the order as provided by paragraph (c) of this Rule, verify that the funds have been invested as ordered.~~

~~(g) **Service upon Clerk\Financial Deputy.** The party or~~

~~parties obtaining an order shall personally serve the Clerk or  
Chief Deputy and the Financial Deputy with a copy of the order.~~

~~\*\*\*~~

## Rule 1.16

**ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES**

(a) Criminal Cases. All misdemeanor cases filed by indictment or information shall be assigned to a full-time Magistrate Judge who shall proceed in accordance with 18 U.S.C. §3401 and the Rule of Procedure for the Trial of Misdemeanors Before United States Magistrate Judges. Misdemeanor cases filed by indictment or information shall be assigned to a full-time Magistrate Judge by automated random selection, with the exception of cases brought before the full-time Magistrate Judges sitting in Flagstaff and in Yuma, which shall be directly assigned. All other misdemeanors, except petty offense cases processed by the Central Violations Bureau, shall be assigned to any Magistrate Judge designated by those rules to try misdemeanors. Any Magistrate Judge may act in the absence or unavailability of the assigned Magistrate Judge. In the case of a Class A misdemeanor, ~~if~~ the defendant does not waive trial, judgment, and sentencing before a District Judge of the District Court and does not consent to those proceedings before the Magistrate Judge, the case shall be promptly referred to the Clerk of Court for assignment to a District Judge and the defendant shall be directed to appear before the assigned District Judge.

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Rule 1.21

**SUSPENSION OF RULES**

Upon application, or upon the Court's own motion, any ~~District Judge or Magistrate~~ Judge of this Court may suspend any of these Local Rules for good cause shown.

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Rule 2.3

**STATUTORY COURT**

Where, pursuant to law, an action must be heard by a District Court composed of three ~~District~~ Judges, the procedure to be followed by counsel in filing pleadings and submitting briefs will be as follows:

(a) **Pleadings Filed in Quadruplicate.** All pleadings are to be filed with the Clerk in quadruplicate, the original becoming part of the file and the three copies to be distributed by the Clerk to the members of the statutory Court.

(b) **Briefs Filed in Quadruplicate.** Briefs are to be submitted in quadruplicate and, unless otherwise directed by the Court, they are to be delivered to the Clerk for distribution to the members of the statutory Court.

Rule 2.4

**NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY**

A party drawing in question the constitutionality of an act of Congress or of any state affecting the public interest shall forthwith, upon the filing of any pleading or other document which raises the question, notify in writing the District Judge or Magistrate Judge to whom the case has been assigned of the pendency of the question in any action, suit or proceeding in the district court in which the United States or a state or any agency, officer or employee thereof is not a party. If the case has not been assigned, the written notice shall be given to the Chief Judge. ~~The purpose of the notice is to enable the Court to comply with the requirements of 28 U.S.C. §2403.~~ The notice shall state the title of the cause, a reference to the questioned statute sufficient for its identification, and the respect(s) in which it is claimed that the statute is unconstitutional. The purpose of the notice is to enable the Court to comply with the requirements of 28 U.S.C. §2403. This Rule does not affect any constitutional right timely asserted by a party.



Rule 2.12

**DIFFERENTIATED CASE MANAGEMENT**

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(b) **Tracks.**

(1) Expedited Track.

(A) Assignment.

(i) Cases are assigned to this track by the Clerk of Court based on nature of suit, and are those which usually are resolved on the pleadings. Natures of suit include:

Bankruptcy Appeals;

Social Security;

Student Loan, Veteran's Benefits, and  
other recovery;

Forfeiture/Penalty actions;

Freedom of Information Act (FOIA) actions;

Office of Navajo and Hopi Indian  
Relocation actions;

Summons and Subpoena Enforcement actions.

(ii) Other cases may be assigned to this track based on complexity. Such determination may be made either by the parties at filing, or by the Court at a preliminary scheduling conference.

(iii) A case in a nature of suit listed in (i) above, but which may have more complex issues or facts, may likewise be assigned to another track.

(B) Management. A preliminary scheduling conference is not required; however, a scheduling order shall be issued.

~~(C) Discovery. Limited discovery is presumed to include interrogatories of up to fifteen (15) single-part questions, the deposition of the parties and not more than one (1) non-party fact witness deposition per party.~~

\*\*\*

(4) Standard Track.

(A) Assignment. Cases which do not meet the criteria of the Expedited, Arbitration, or Prisoner/Pro Se tracks, and are not determined complex, are assigned to this track.

(B) Management.

(i) A preliminary scheduling conference, pursuant to Rule 16 of the Federal Rules of Civil Procedure, shall be scheduled within one-hundred eighty (180) days of filing, and conducted by the assigned District Judge or his or her designee.

(ii) The scheduling order issued from this conference, in accordance with Rule 16(b) of the Federal Rules of Civil Procedure, shall include dates for filing a joint proposed pretrial order and conducting a pretrial conference. The trial date shall be set at the pretrial conference. If the assigned District Judge is unable to try the case on that date, the case shall be referred to the Chief Judge for reassignment to any available District Judge.

~~(C) Discovery. Limited discovery is presumed to include interrogatories of up to forty (40) single-part questions, the deposition of the parties and their respective experts, and not more than eight (8) non-party fact-witness depositions per party.~~

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## Rule 2.19

**COSTS: SECURITY FOR, TAXATION, PAYMENT**

(a) **Procedure for Filing Bill of Costs.** Costs shall be taxed as provided in Rule 54(d), Federal Rules of Civil Procedure. A party entitled to costs shall, within ten (10) days after the entry of final judgment, unless time is extended under Rule 6(b), Federal Rules of Civil Procedure, file with the Clerk of Court and serve upon all parties, a bill of costs on a form provided by the Clerk, ~~together with a notice of application to have the costs taxed. The notice of application to have the costs taxed shall contain a date for taxation (normally three (3) weeks after the date of filing the bill of costs), which shall be secured from the Clerk.~~ This bill of costs shall include a memorandum of the costs and necessary disbursements, so itemized that the nature of each can be readily understood, and, where available, documentation of requested costs in all categories must be attached. The bill of costs shall be verified by a person acquainted therewith.

(b) **Objections, Appearance Not Required.** Within ten (10) days after service of the bill of costs, a party objecting to any cost item may file with the Clerk and serve itemized objections in writing, presenting any affidavits or other evidence he or she has in connection with the costs and the grounds for the objection. ~~On the date set for the taxation neither the parties nor their attorneys shall appear, and not later than ten (10) days thereafter, the Clerk shall proceed to tax the costs and shall allow such items as are properly allowable. Once the ten (10) day objection period has expired, the Clerk shall have thirty (30) days to tax the costs and allow such items as are properly allowable.~~ In exceptional cases a party may request, by written motion, that a taxation hearing with parties present be held before the Clerk. The Clerk, on his or her own motion, may

also order the parties to appear for a taxation hearing. In the absence of objection, any item listed may be taxed in the discretion of the Clerk. The Clerk shall thereupon docket and include the costs in the judgment. Notice of the Clerk's taxation shall be given by mailing a copy of the taxation order to all parties in accordance with Rule 5, Federal Rules of Civil Procedure. The taxation of costs thus made shall be final unless modified on review by the Court on motion served within five (5) days thereafter, pursuant to Rule 54(d), Federal Rules of Civil Procedure.

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Rule 2.21

**SURETY BONDS AND UNDERTAKINGS**

(a) **Surety in Form Provided by State's Rules.** Whenever by statute or rule of this Court surety is required to be given for any purpose by any party, such surety shall be in the form and manner provided for similar surety in the state courts under the statutes and rules of Arizona.

(b) **Restrictions on Persons Accepted as Sureties.** No Clerk, Marshal, member of the bar, or other officer of the Court, will be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

(c) **Acceptance of Cash, Bonds, or Notes.** The Clerk may accept cash or, to the extent and in the manner permitted by 6 ~~U.S.C. §15~~ 31 U.S.C. §9303, ~~United States bonds or notes~~ use of Government obligations instead of surety bonds.

(d) **Clerk's Authority to Approve.** The Clerk is authorized to approve any surety required for any purposes unless the statute expressly requires the approval of the Court therefor.

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RULE 3

**RULES WITH PARTICULAR APPLICATION IN PRISONER  
PROCEEDINGS BROUGHT BY INCARCERATED PERSONS**

RULE 3.1

**COMPLAINTS BY INCARCERATED PERSONS ~~PRISONERS~~**

(a) **Filing Requirements.** All complaints and applications to proceed in forma pauperis by incarcerated persons ~~prisoners~~ shall be signed and legibly written or typewritten on forms approved by the Court and in accordance with the instructions provided with the forms unless the assigned District Judge or Magistrate Judge, in his or her discretion, finds that the complaint or application is understandable and that it conforms with federal and local requirements for ~~prisoners~~ actions filed by incarcerated persons. Copies of the forms and instructions shall be provided by the Clerk upon request. The assigned District Judge or Magistrate Judge may strike or dismiss complaints or applications which do not conform substantively or procedurally with federal and local requirements for ~~prisoner~~ actions filed by incarcerated persons.

(b) **Assignment of Judicial Officer.** Once a complaint by ~~a~~ an incarcerated person ~~prisoner~~ is assigned to a District Judge or Magistrate Judge, any future pleadings lodged or filed by the incarcerated person ~~prisoner~~ shall be assigned to the same District Judge or Magistrate Judge to whom the earlier case was assigned, unless otherwise ordered by the Court.

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Rule 4.6

**BAIL**

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(e) **Release on Bond Pending Appeal or Self-Surrender.** When a defendant is released on bond pending appeal or self-surrender, the defendant will be ordered to report to the Pretrial Services Office, and, unless otherwise directed, shall comply with such reasonable rules and regulations as the Pretrial Officer shall prescribe during pendency of the appeal or while awaiting the self-surrender date, subject to modification by the Court for cause shown.

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Rule 4.11

**CONFESSIONS AND ADMISSIONS**

(a) **Written Notice of Statements to be Used.** Consistent with Rule 16(a)(1) of the Federal Rules of Criminal Procedure,~~Unless~~ otherwise ordered, the United States Attorney~~, at least fifteen (15) days prior to trial,~~ shall give written notice to the Defendant through his or her attorney of any and all written or oral confessions, admissions, or statements of the Defendant which the government intends to use during the course of the trial.

(b) **Objections to Above.** ~~Not less than ten (10) days prior to the trial date,~~ The Defendant's attorney shall, unless otherwise ordered, file with the Clerk and notify the United States Attorney of the objections, if any, which Defendant may have to such confessions, admissions, or statements. Upon request of the Defendant's attorney and within two (2) days after receipt of any objections, the Clerk shall fix a time and place for hearing such objections and determining the admissibility of the alleged confessions, admissions, or statements. No hearing need be set or held unless the Defendant's objections go beyond mere allegations and set forth specific facts showing by affidavit or otherwise that there is a genuine issue to be resolved.

\*\*\*



~~Rule 4.12~~

~~INCOMPETENCY DEFENSE~~

~~————Mental incompetency shall not be a defense in any criminal proceeding unless the accused or his or her attorney in such proceedings, at the time the accused enters his or her plea of not guilty or within fifteen (15) days thereafter or at such later time as the Court may for good cause permit, files with the Court and serves upon the United States Attorney written notice of his or her intention to rely on such defense.~~

~~\*\*\*~~

[PROPOSED NEW RULE / Suggested placement within Existing LR 4.14, however it may be renumbered]

COMPLEX CASES

(a) **Declaration of Complex Case.** Upon the return of an indictment by the grand jury, the attorney for the government shall note on the case summary form whether the case is considered so unusual or complex within the meaning of 18 U.S.C. § 3161(h)(8)(B)(ii). If designated complex by the government, at the time of arraignment, the Magistrate Judge shall set the matter for a status conference to be held within ten (10) days before the District Judge to whom the case is assigned, who shall then determine whether the case is complex. If a finding of complex case is made, the court shall set a schedule for discovery and motions. The District Judge shall also consider at such a conference or at any other time so requested by a party or by the court sua sponte whether to adopt procedures to regulate discovery and facilitate trial time. If a case is not designated complex by the government and counsel for the defendant believes that the case should be so designated, defendant's counsel shall so inform the Magistrate Judge at the time of arraignment. At that time, the Magistrate Judge shall set the matter for a status conference within ten (10) days before the District Judge to whom the case is assigned, who shall then determine whether the case is complex. If the finding of complex case is made, the court may enter order(s) concerning discovery and motions as set forth above.

(b) **Duty to Confer.** Within ten (10) days of the date after the District Judge declares a case complex, counsel for the government and for the defendant shall confer in good faith to determine the obligations as to the scope of discovery that must be produced by all parties and the most practicable manner and times to exchange discovery. If the parties cannot agree on the

scope and manner and times of exchange of discovery, the party seeking to enforce its rights shall submit the appropriate motion to regulate or compel discovery and shall state in the motion that it has conferred in good faith with counsel for the opposing party but despite attempts to resolve the issue, the parties could not reach agreement.

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APPENDIX C. - RULE 1.9 FORM\*

(Attorney's Name)†  
(Attorney's Address)  
State Bar No. 012345  
(Attorney's Telephone Number)  
Attorney's facsimile number, if any)  
Attorney's e-mail address, if any)  
Attorney for Plaintiffs Doe

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

John Doe and Jane Doe	)	
husband and wife,	)	No. CV-034-1-PHX-ROS
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	FIRST AMENDED COMPLAINT
ABC Corporation, a	)	
Delaware	)	
corporation,	)	
	)	
Defendant.	)	
	)	

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

(Attorney's Name)  
Attorney for  
Plaintiffs Doe‡

\*This form is intended for illustrative purposes only.  
†A proposed order must not contain any information  
identifying the party submitting the order.  
‡ The name and title of the Judge assigned to the matter  
should be adapted accordingly when submitting a proposed  
order.

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